

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B.16, AS
AMENDED**

**AND IN IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES
INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER
2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

MOTION RECORD
(Appointment of Representative Counsel)

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capacity as Court-Appointed Liquidator of
First Hamilton Holdings Inc.,
First Hamilton Financial Services.,
First Hamilton Capital Inc.,
First Hamilton General Partner 2 Inc., and
First Hamilton Mortgage Brokers Inc.

TO: SERVICE LIST

SERVICE LIST

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Proposed Representative Counsel for the Investor Claimants

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Applicants

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Tab 1

Court File No. CV-20-00641372-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B.16, AS
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2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.

Applicants

NOTICE OF MOTION
(Appointment of Representative Counsel)

MNP Ltd. (“MNP” or the “**Liquidator**”), in its capacity as Liquidator of the estate and effects of the Applicants, First Hamilton Holdings Inc. (“**FHH**”), First Hamilton Financial Services Inc. (“**FHFS**”), First Hamilton General Partner 2 Inc. (“**FHGP2**”), First Hamilton Capital Inc. (“**FHC**”), First Hamilton Mortgage Brokers Inc. (“**FHMB**”) (collectively the “**FHH Entities**” or “**Companies**”), will make a motion to the Honourable Justice Hainey on Thursday, August 6, 2020, at 2:00 p.m., or as soon after that time as the motion can be heard, by judicial teleconference via Zoom at Toronto, Ontario. Please refer to the conference details attached as **Schedule “A”** hereto in order to attend the motion and advise if you intend to join the motion by emailing George Benchetrit at george@chaitons.com.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. an order substantially in the form attached hereto as **Schedule “B”**, among other things:
 - a. appointing Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”) as representative counsel (“**Representative Counsel**”) for the Investor Claimants (as defined below);
 - b. authorizing Representative Counsel, acting in consultation with the Liquidators (as defined below) to form a committee of investors to advise it (the “**Representative Committee**”);
 - c. authorizing Representative Counsel to take such steps and to perform such acts as are necessary or desirable for the purpose of representing the Investor Claimants, including, without limitation:
 - i. developing a process in consultation with the Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims (as defined below);
 - ii. addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;
 - iii. reporting to and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and
 - iv. performing such other actions as approved by this Court; and
2. such further and other relief that the Liquidator may request and this Court may consider just.

THE GROUNDS FOR THE MOTION ARE:***OVERVIEW***

1. First Hamilton Holdings Inc. (“**FHH**”) carried on business as an investment vehicle for accredited investors to earn fixed dividends from an investment in a basket of high-yield bonds. FHH raised capital by selling preference shares and used those proceeds to purchase high-yield bonds on “margin” through its accounts at Pace Securities Corporation (“**PSC**”). The interest and any trading profits earned on the bonds, net of management costs from PSC and other expenses, were to be used to fund regular dividend payments to the preference shareholders.
2. Almost all of FHH’s investors are retail investors, and many of its investors are also customers of PSC and Pace Savings and Credit Union Ltd. (“**Pace Credit Union**”). PSC provided brokerage, investment and business management services to FHH.
3. Further, many of the investors are elderly and were led to believe by representatives of PSC and Pace Credit Union that they would be investing much of their retirement funds in low risk investments and were so encouraged by the said representatives to purchase the investments.
4. FHH sold preference shares, accompanied by warrants for one series of shares, to investors and used the proceeds from those shares to invest in a basket of high-yield bonds, the interest and gains on which were intended to be used to pay management fees to PSC and dividends to holders of the preference shares, as well as to fund other business ventures.
5. On May 21, 2020, MNP Ltd. (“**MNP**”) was appointed, pursuant to an order of this Court, as liquidator of the estate and effects of a number of related entities, including FHH (the “**Liquidator**”).

FHH PREFERENCE SHARES AND WARRANTS

6. Between April 2018 and June 2019, approximately 3.3 million of FHH’s preference shares and units were sold for a total investment value of approximately \$32.5 million.

7. Of these 3.3 million outstanding units, as of the end of May 2020,
 - a. approximately 1.4 million shares/units were held in trust by LBS in registered retirement accounts of PSC's clients, at an initial investment value of approximately \$14.0 million;
 - b. approximately 1.8 million shares/units were held in trust by LBS in non-registered accounts of PSC's clients as physical certificates by the shareholders, all at a total initial investment value of approximately \$17.5 million; and
 - c. the remaining shares/units were redeemed or retracted by FHH for various reasons.
8. In April 2020, due to the impact of the COVID-19 pandemic on the global economy, PSC revalued the market price of the preference shares of FHH. Both series of FHH preference shares were revalued for a total investment value of \$5.1M for all outstanding shares. These re-valuations represented an 84% decrease of total initial investment value for FHH preference shareholders.
9. Absent a recovery from third party sources, it appears unlikely that there will be any significant distributions available from the liquidation for the holders of FHH preference shares or warrants.
10. MNP has been in contact with Ernst & Young Inc., the Liquidator in a related proceeding involving PSC and certain related entities (together with MNP, "**the Liquidators**" and collectively the "**Liquidation Proceedings**") and understands that investors in similar securities issued by that corporation have suffered similarly large losses, and that individuals who invested in those securities are also interested in pursuing legal remedies to try to recover their losses.

INVESTOR CLAIMANTS AND CLAIMS

11. In particular, MNP has been made aware of claims and/or potential claims by holders of FHH preference shares and warrants against various parties including the Companies,

PSC, Pace Credit Union, and their respective directors and officers (collectively, the “**Potential Defendants**”).

12. More specifically, MNP has been in contact with numerous Investors who are elderly and who claim to have been misled by the representatives of PSC and FHH, and in particular, persuaded to invest a large part of their savings into what they thought were secure and risk-free investments.
13. Certain but not all of the Investor Claimants are members of Pace Credit Union.
14. MNP understands that various law firms have been contacted by one or more Investor Claimants with a view to potentially commencing litigation against one or more of the Potential Defendants.
15. While one option would be to permit counsel to bring forward a class proceeding on behalf of the Investor Claimants, it would appear to be more appropriate and efficient to permit those claims to be brought forward via representative counsel in the current Liquidation Proceedings.
16. The Investor Claimants and representative counsel would benefit from the existing structure in which the Liquidators have already been appointed and can provide assistance as officers of the court. The Court would also benefit from the information and the independence offered by the Liquidators.

REPRESENTATIVE COUNSEL APPROPRIATE

17. Following discussions with various investors who explained their situation, and recognizing that there were no funds in the Estate to review any avenues for recovery for the investors, MNP approached the law firm Paliare Roland Rothstein Rosenberg LLP (“**Paliare Roland**”) with a view to their possibly acting on behalf of certain Investor Claimants.
18. Since that date, the Liquidators have engaged in a constructive dialogue with Paliare Roland, and which dialogue was recently expanded to include PACE Credit Union.

Paliare Roland has confirmed to the Liquidators that it has been in contact with at least 27 Investor Claimants as of this date.

19. The Liquidators are of the view that it is appropriate that representative counsel be appointed to deal with the various claims of the investors, and that it would be appropriate that such counsel be appointed within the Liquidation Proceedings.
20. The Liquidators and Paliare have now agreed upon the terms for the appointment of Paliare Roland as Representative Counsel for Investor Claimants as defined in **Schedule “C”** attached hereto, subject to the approval of this Court, on the basis of the draft order being submitted jointly and attached to the Liquidators’ Notices of Motion (the **“Proposed Representative Counsel Order”**).
21. The Liquidators and Paliare have also discussed with counsel for PACE Credit Union that it would be acceptable to allow PACE Credit Union a period of time in which it would have the exclusive right to try to propose a settlement involving any claims as against the credit union and / or its officers and directors.
22. MNP supports the appointment of Paliare Roland as Representative Counsel on the terms of the Proposed Representative Counsel Order for the following reasons:
 - a. MNP is satisfied as the qualifications and relevant experience of Paliare Roland to act on this mandate;
 - b. the Investor Claimants are a vulnerable and disparate group of individuals, including seniors, who would benefit from Representative Counsel assisting them in navigating the Liquidation Proceedings and advancing their claims;
 - c. as proposed, Representative Counsel would act as a single point of contact to receive and distribute pertinent information and coordinate communication with the Investor Claimants;
 - d. the potential multiplicity of actions threatened to be commenced in relation to the PFL or FHH preference shares or warrants would not provide comprehensive representation for all Investor Claimants;

- e. the appointment of Representative Counsel will allow for all the claims that could be asserted by the Investor Claimants to be addressed in an efficient, timely and consistent manner under the exclusive jurisdiction of this Court;
- f. the appointment of Representative Counsel would assist in ensuring that all Investor Claimants are able to participate meaningfully and effectively in any process to resolve or adjudicate these claims;
- g. the appointment of Representative Counsel will benefit not only the Investor Claimants by improving their access to justice, but also other stakeholders by reducing the administrative burden associated with these proceedings; and
- h. given the age and vulnerability of the Investor Claimants, the social benefit to be derived from their representation by experienced counsel and the facilitation of the resolution of their claims in an efficient, timely and consistent manner, it is fair and just to appoint Representative Counsel.

Other Grounds

- 23. Section 207(1) and (2) of the *Business Corporations Act* (Ontario), R.S.O. 1990, c. B.16, as amended, and Rules 2.03, 3.02, 10, 16.01 and 37 of the *Rules of Civil Procedure* (Ontario).
- 24. Such further and other grounds as counsel may advise and this Court deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

- 1. The First Report of MNP, dated July 31, 2020.
- 2. Such further and other material as counsel may advise and this Court permit.

July 31, 2020

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its capacity as Court-Appointed
Liquidator of First Hamilton Holdings
Inc., First Hamilton Financial Services.,
First Hamilton Capital Inc., First Hamilton
General Partner 2 Inc., and
First Hamilton Mortgage Brokers Inc.

TO: SERVICE LIST

Schedule "A"
Conference Details to join Motion via Zoom

<https://us02web.zoom.us/j/85720245519?pwd=VmNIYWR4R2l6ZE5vRTdPUkpidEJsdz09>

Meeting ID: 857 2024 5519

Passcode: 168692

Schedule “B” – Draft Order

Court File No. CV-20-00641059-00CL
 Court File No. CV-20-00641372-00CL

**ONTARIO
 SUPERIOR COURT OF JUSTICE
 (COMMERCIAL LIST)**

THE HONOURABLE)
)
 JUSTICE HAINEY) THE
 DAY OF, 2020

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
 R.S.O. 1990, C. B.16, AS AMENDED**

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 PACE GENERAL PARTNER LIMITED**

**AND IN THE MATTER OF A WINDING UP OF
 FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES
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 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

ORDER

THIS MOTION made by Ernst & Young Inc. in its capacity as court appointed liquidator of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited (the "**PSC Liquidator**") and by MNP Ltd. in its capacity as court appointed liquidator of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc.

and First Hamilton Mortgage Brokers Inc. (the “**FHH Liquidator**”, and together with the PSC Liquidator, the “**Moving Parties**” or “**Court Appointed Liquidators**”) for an order appointing Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”) as representative counsel for the investors described in Schedule “A” hereto (the “**Investor Claimants**”) in these proceedings was heard this day at 330 University Avenue, Toronto, Ontario,

ON READING the motion records, on hearing the submissions of counsel for: the Moving Parties; Pace Savings & Credit Union Ltd. (the “**Credit Union**”), Surinder Sawrup, Aman Sawrup, and Saira Ahmad; and , such other counsel as were present; no one else appearing although duly served, as appears from the Affidavit of Service of ●, sworn ●, 2020,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that Paliare Roland be and is hereby appointed to represent the Investor Claimants in these proceedings (the “**Representative Counsel**”), in respect of their Investor Claims (as defined in Schedule “A”) provided that the scope of that representation may be amended at the request of Representative Counsel, following consultation with the Court Appointed Liquidators, upon further motion to this Court on notice to the Court Appointed Liquidators, the Credit Union and such others as this Court may direct.
3. **THIS COURT ORDERS** that Representative Counsel shall represent the interests of the Investor Claimants without any obligation to consult with or seek instructions from individual Investor Claimants, provided however, that Representative Counsel, acting in consultation with the Court Appointed Liquidators, shall establish a committee of Investors (the “**Representative Committee**”) on such terms as may agreed to by the Court Appointed Liquidators or established by further order of this Court.

4. **THIS COURT ORDERS** that, subject to the exclusive right of the Credit Union to present a settlement proposal as set out in paragraph 14 hereof, Representative Counsel be and is hereby permitted, but not directed, to take and to perform, for and on behalf of the Investor Claimants, all steps and all acts necessary or desirable to represent the interests of the Investor Claimants in these proceedings (**“Representative Counsel Mandate”**) including, without limitation:
- a. developing a process, in consultation with the Court Appointed Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims;
 - b. addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;
 - c. reporting to and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and
 - d. performing such other actions as approved by this Court.
5. **THIS COURT ORDERS** that the Court Appointed Liquidators shall forthwith provide to the Representative Counsel, subject to mutually satisfactory confidentiality arrangements, or by further order of this Court, without charge, the following information, documents and data in their possession (the **“Information”**) to be used only for the purpose of the Representative Counsel Mandate:
- a. the names, last known addresses and last known telephone numbers and e-mail addresses, and other contact information of the Investor Claimants; and
 - b. upon request of the Representative Counsel, such documents and data as may be reasonably relevant to issues affecting the Investor Claimants,

subject to the agreement of the Court Appointed Liquidators or further order of this Court.

6. **THIS COURT ORDERS** that, within 10 days of the making of this order, Representative Counsel shall provide notice of this order to each of the Investor Claimants through a communication in form and content satisfactory to Representative Counsel, the Court Appointed Liquidators and the Credit Union, or as may be further directed by this Court (the “**Notice**”), to be delivered in the following manner:
- a. publication on the website maintained by the Court Appointed Liquidators in connection with these proceedings;
 - b. publication of the Notice in the Globe and Mail within 10 calendar days of the making of this order;
 - c. by regular mail sent to the last known address of each Investor Claimant; and,
 - d. where possible by email sent to the last known email address of the Investor Claimant,

and such Notice shall be deemed to be effective on the later of the date of publication or the date the Notice was sent, as applicable.

7. **THIS COURT ORDERS** that an Investor Claimant who prefers not to take the benefit of Representative Counsel may opt out of such representation by completing the Opt-Out Notice in the form of Schedule B to this order (the “**Opt-Out Notice**”) and delivering it to Representative Counsel by email to the address indicated on the Opt-Out Notice such that it is received by no later than 11:59 p.m. (Eastern Daylight Time) on September 16, 2020, and Representative Counsel shall provide a copy of all Opt-Out Notices that it receives to each of the Court Appointed Liquidators.

8. **THIS COURT ORDERS** that an Investor Claimant who delivers an Opt-Out Notice (a “**Self-Represented Investor Claimant**”) shall not have the benefit of Representative Counsel, and Representative Counsel shall have no obligation to report to, respond to inquiries from, or otherwise take any account of the interests of any Self-Represented Investor Claimant. For greater certainty, nothing in this order obliges any party to deal with any Self-Represented Investor Claimant or precludes the compromise of the claims of a Self-Represented Investor Claimant in the ordinary course, by operation of applicable law.
9. **THIS COURT ORDERS** that the fees and expenses of Representative Counsel shall be paid out of the funds recovered for the Investor Claimants (if any) pursuant to or by virtue of this appointment, in accordance with terms to be agreed with the members of the Representative Committee and approved by this Court in the ordinary course, or, in the absence of an agreement, as directed by further order of this Court, having regard to the resources invested, risk assumed and results achieved by Representative Counsel, together with such other considerations as this Court determines to be relevant.
10. **THIS COURT ORDERS** that Representative Counsel and members of the Representative Committee shall not be liable for any act or omission in respect of their appointment or fulfillment of their duties in respect of the provisions of this Order, other than for gross negligence or wilful misconduct. No action or other proceedings shall be commenced against Representative Counsel or members of the Representative Committee in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court on at least 21 days’ notice to Representative Counsel and upon further order in respect of security for costs of the Representative Counsel and the members of the Representative Committee in connection with any such action or proceeding, to be given by the plaintiff on a substantial indemnity basis.
11. **THIS COURT ORDERS** that “**Tolled Claims**” shall mean any and all actions, suits, claims, causes of action, demands, or grievances, whether in Canada or elsewhere,

whether known or unknown, which an Investor Claimant may bring against any of the Applicants, or any related persons or entities, including the Credit Union, in respect of the Preference Shares (as defined in Schedule A), but shall not include proceedings of the kind described in s. 11.1(2) of the *Companies' Creditors Arrangement Act*.

12. **THIS COURT ORDERS** that until Representative Counsel has completed the Representative Counsel Mandate or until this Court otherwise directs (the "**Stay Period**"), no proceeding or enforcement process in respect of Tolled Claims (each, a "**Proceeding**") shall be commenced or continued in any Court or tribunal against or in respect of the Applicants, or any of their related entities, including the Credit Union, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or their related entities, including the Credit Union, are hereby stayed and suspended pending further Order of this Court. .
13. **THIS COURT ORDERS** that to the extent that any statute of limitations or other notice or limitation period (or any other time period of similar effect) whether statutory, equitable, contractual or otherwise, under Canadian law, or any other applicable law, (a "**Limitation Period**") in connection with a Tolled Claim expires on or after the date of this Order (the "**Effective Date**") such Limitation Period shall be and is hereby tolled such that it ceases to continue running as of the Effective Date and, for greater certainty, that all time elapsing on or after the Effective Date shall not be counted in determining any such Limitation Period.
14. **THIS COURT ORDERS** that until October 15, 2020 or such later date as may be agreed by Representative Counsel and the Court Appointed Liquidators or ordered by this Court (the "**Exclusivity Period**"), the Credit Union shall have the exclusive authority to seek, design and present a settlement and/or settlement package in respect of direct and indirect Investor Claims (including Claims Over and Third Party Claims) against the Credit Union and/or its officers and directors in respect of the Preference Shares, for consideration by Representative Counsel and the Court Appointed Liquidators.

15. **THIS COURT ORDERS** that Representative Counsel may move before this Court to terminate their appointment, or for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, and notice of such motion shall be given to the Applicants, the Court Appointed Liquidators, and other interested persons, provided that this court retains its jurisdiction to dispense with such notice where appropriate.
-

SCHEDULE "A"

Definition of Investor Claimants

"Investor Claimants" means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants and any related persons or organizations (collectively **"Defendants"**) in respect of:

- (i) the purchase PACE Financial Limited's Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares; and,
- (ii) the purchase of equivalent investments in FHH as well as FHH warrants (collectively, with (i) the **"Preference Shares"**).

in Canada, or anywhere else in the world, including without limitation claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, non-pecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation (the **"Investor Claims"**).

The Investor Claimants shall exclude all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

SCHEDULE "B"**OPT-OUT LETTER****TO: PacerInvestorClaimantOptOut@paliarerland.com****RE: CLAIMS AGAINST PACE SECURITIES CORP., PACE FINANCIAL LIMITED, FIRST HAMILTON HOLDINGS INC., et al.**

My Name is: _____

My telephone number is: _____

My email address is: _____

I am an Investor Claimant as defined in the Representation Order of Mr. Justice Hainey dated July ♦, 2020 (the "Order").

In accordance with paragraph ♦ of the Order, I am hereby notifying you that I prefer not to take the benefit of Representative Counsel, as defined in the Order

I acknowledge that as a result of my having delivered this notice, Representative Counsel shall have no obligation to report to me, to respond to inquiries from me, or otherwise take any account of my interests.

I also acknowledge that nothing in the Order: (a) obliges any party to deal with me or my claims by virtue of my having delivered this notice; or, (b) precludes the compromise of my claims in the ordinary course, by operation of applicable law.

Date:

Signature of Witness_____
Signature of Investor Claimant

Name:

Address:

Telephone Number:

Schedule “C” – Definition of Investor Claimants

“**Investor Claimants**” means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants and any related persons or organizations (collectively “**Defendants**”) in respect of:

- (i) the purchase PACE Financial Limited’s Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares; and,
- (ii) the purchase of equivalent investments in FHH as well as FHH warrants (collectively, with (i) the “**Preference Shares**”).

in Canada, or anywhere else in the world, including without limitation claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, non-pecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation (the “**Investor Claims**”).

The Investor Claimants shall exclude all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

Tab 2



Court File No. CV-20-00641372-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B.16, AS
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2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

**FIRST REPORT OF MNP LTD. IN ITS CAPACITY AS
COURT-APPOINTED LIQUIDATOR OF THE APPLICANTS**

July 31, 2020

INTRODUCTION

1. This first report (the “**First Report**”) is filed by MNP Ltd. (“**MNP**” or the “**Liquidator**”) in its capacity as Liquidator of the estate and effects of the Applicants, First Hamilton Holdings Inc. (“**FHH**”), First Hamilton Financial Services Inc. (“**FHFS**”), and First Hamilton General Partner 2 Inc. (“**FHGP2**”) pursuant to the *Business Corporations Act* (Ontario) (“**OBCA**”); and (b) First Hamilton Capital Inc. (“**FHC**”) and First Hamilton Mortgage Brokers Inc. (“**FHMB**” and, together with FHH, FHFS, FHGP2 and FHC, the “**FHH Entities**” or “**Companies**”) pursuant to the Order of the Honourable Mr. Justice Hainey dated May 21, 2020 (the “**Appointment Order**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.

2. The purpose of this First Report is to provide the Court with information regarding:
 - a. the Companies’ operations and financing;

 - b. the Liquidator’s activities following its appointment, including:
 - i. taking possession of the Companies’ Head Office, as defined below;

 - ii. attempts at taking possession of the Companies’ books and records;

 - iii. the filings and notices regarding the winding up of the Companies as required by the relevant provincial and federal statutes; and

 - c. the Liquidator’s communications with various investors in FHH preference shares (the “**Preference Shares**”) as well as other potential creditors;

 - d. the FHH Entities’ assets, the disposition of the Companies’ investments in corporate bonds (the “**Bonds**”) and the status of asset realizations;

 - e. the circumstances leading up to the decision by certain Preference Share investors to retain Paliare Roland Rothstein and Rosenberg LLP (“**Paliare Roland**”) as legal counsel to pursue any potential claims they may have against the FHH Entities, PSC and other persons; and

- f. provide the Liquidator's rationale in support of its motion that the Court appoint Paliare Roland as representative counsel ("**Representative Counsel**") for Investor Claimants (as defined below); and
- g. provide support for the Liquidator's request for an order(s), among other things:
 - i. approving this Report and the activities and actions of the Liquidator described herein;
 - ii. appointing Paliare Roland as Representative Counsel; and
 - iii. such other relief as to this Court may seem just.

TERMS OF REFERENCE

- 3. In preparing this First Report, and making the comments herein, the Liquidator has been provided with, and has relied upon, information (the "**Information**") contained in or obtained from:
 - a. various documents filed in this proceeding, including the affidavit of Mr. Joseph Thomson ("**Thomson**"), sworn May 19, 2020 (the "**Thomson Affidavit**"), as well as other documents filed in the related liquidation proceedings of Pace Securities Corp. and other related entities ("**PSC**");
 - b. the Companies' books and records and certain available but unaudited, draft and/or internal financial information obtained by the Liquidator;
 - c. discussions with and information provided by the Companies' former directors and management;
 - d. discussions and communications with the Court appointed-liquidator of PSC, Ernst & Young Inc. ("**E&Y**") and its counsel;
 - e. discussions and communications with individual investors who purchased Preference Shares; and,
 - f. other third-party sources or as otherwise available to the Liquidator and its counsel.

4. The Liquidator has not audited, reviewed or otherwise verified the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Professional Accountants Handbook and, accordingly, the Liquidator expresses no opinion or other form of assurance in respect of the Information.
5. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian Dollars.
6. Capitalized terms not defined in the First Report have the meaning ascribed to them in the Appointment Order.
7. The Liquidator will make a copy of this First Report, and related documents, available on the Liquidator's website at www.mnpdebt.ca/firsthamilton

OVERVIEW AND BACKGROUND

8. FHH carried on business as a business investment corporation, principally by using the services of PSC, in the capacity as portfolio manager, to invest FHH's funds in bonds and other debt instruments, and to acquire or develop equity investments.
9. FHH's registered office is listed as 199 Bay Street, Suite 2200, Toronto, Ontario M5L 1G4 and its head office is located at 100 King Street West, Suite 2400, Hamilton, Ontario L8P 1A2 (the "**Head Office**").
10. The President and CEO of FHH is Mr. Joseph Thomson, who is also the President and CEO of PSC.
11. FHH was created as an investment vehicle for qualified investors to earn fixed dividends from FHH investing in a basket of high-yield bonds (the "**Bonds**"). FHH raised capital by selling the Preference Shares. FHH used those proceeds to purchase high-yield bonds and added more high-yield bonds to its portfolio by purchasing on "margin" through its accounts at PSC. The interest and any trading profits earned on the Bonds, net of management costs and other expenses, were to be used to fund regular dividend payments to the preference shareholders.

12. Almost all of FHH's investors are retail investors, who are also members of the related entity Pace Credit Union, and they are also customers of PSC. PSC provided brokerage, investment and business management services to the FHH Entities.
13. The dividends owing to FHH's preference shareholders are cumulative, meaning that any dividends (whether or not declared) which are not paid are accumulated and remain payable to investors at a later date.
14. Despite the fact that PSC provided brokerage and other services to FHH, PSC does not hold its customers' cash and securities itself. Rather, it is registered with the Investment Industry Regulatory Organization ("IIROC") as a Type 2 "introducing broker", and as such, PSC contracts its back-office functions to a "carrying broker".
15. PSC's carrying broker is Laurentian Bank Securities ("LBS"). LBS is therefore the custodian of the securities and cash of FHH's investors.
16. As noted above, FHH purchased Bonds on margin. Margin is a form of loan whereby the broker loans money to its client to allow the client to purchase more securities than could otherwise be purchased with the amount of money the client has available in the account. The loan in the account is collateralized by the securities purchased and cash, and comes with a periodic interest rate. As LBS is PSC's carrying broker, any margin loans provided through a PSC account are in fact provided by LBS.
17. Thus, LBS loaned funds to FHH to permit it to purchase more Bonds than FHH would otherwise have been able to purchase.
18. In addition to investing in Bonds, FHH was created to invest in or to acquire businesses which it could control and operate.
19. FHH had one active subsidiary. FHFS operated as a mortgage broker.

LIQUIDATOR'S ACTIVITIES

20. Following its appointment, the Liquidator's activities included:

- a. securing access to, and taking possession of, the Head Office and the Companies' books and records;
- b. taking possession of the Bonds and investments available;
- c. consulting with the Companies' former directors and management regarding the Companies assets and obtaining downloads of the Companies electronic records in their possession;
- d. confirming the status of insurance coverages, including any Directors and Officers insurance ("**D&O Insurance**")
- e. freezing the Companies' bank accounts;
- f. with the assistance of its legal counsel, Blaney McMurtry LLP ("**Blaney**"), arranging for advertisement of the required Notices and filing winding up resolutions pursuant to the Ontario *Business Corporations Act* and the *Canada Business Corporations Act*; and
- g. establishing the Liquidator's website for this proceeding.

Further details and the results of the Liquidator's activities follow.

BOOKS AND RECORDS

21. When the Liquidator first attended at the Head Office in Hamilton, there were no financial records or computer office equipment of any kind on-site. Other than the use of one office, it did not appear that anyone had actually used this facility. The Landlord's representative advised the Receiver that just prior to the Liquidator's appointment, approximately 20 Banker's Boxes of documents were removed from these premises.
22. The Liquidator advised legal counsel to Thompson of these findings and was directed to the Companies' former Chief Financial Officer Mr. Cliff Periera and the director of FHMB, and former internal accountant, Mr. Andre Sian.

23. The Liquidator also learned as part of that process that other FHH Entity financial records and documents were kept at the offices of PSC.
24. The Liquidator then contacted Mr. Sian, who advised that he was only in possession of certain electronic documents and records, that he then forwarded on to the Liquidator.
25. The Liquidator also contacted Mr. Periera to request that he turn over all financial records in his possession to the Liquidator. Mr. Periera advised that he had no records in his possession and referred the Liquidator back to Mr. Sian.
26. As E&Y had recently been appointed as liquidator of PSC, among other entities, and in fact, just days prior to the Liquidator's own appointment, the Liquidator therefore contacted E&Y to discuss the situation.
27. E&Y advised the Liquidator that it had taken possession of various boxes of FHH's financial records that were located at PSC offices, including subscription and other information regarding Preference Shareholders and their related investments.
28. In addition, the Liquidator was advised that Mr. Thomson had provided E&Y with additional boxes of financial records, taken from the Head Office just prior to the Liquidator's appointment, and that he had kept at his personal residence. E&Y has agreed to safeguard and protect these records of FHH on behalf of the Liquidator and provide access to same, as necessary.

ASSETS OF FHH

Head Office Furniture and Equipment

29. On May 21, 2020, the Liquidator took possession and control of the Head Office by, among other things, changing the locks and making other access arrangements. In addition, the Liquidator confirmed interim occupation arrangements with the landlord of the Head Office premises.

30. The furniture and chattels (the “**Furniture**”) at the Head Office appeared to be brand new, and indeed, appeared not to have been used at all. There were no computers, or other electronic equipment, nor were there any records of any kind, on site.
31. The Liquidator subsequently obtained three proposals from reputable liquidators for the purchase and removal of the Furniture and accepted the highest offer from Canam Appraiz Inc. for \$30,000 plus HST. The sale closed on June 5, 2020 and the Liquidator disclaimed the Head Office Lease effective June 12, 2020.

Corporate Bonds and Securities

32. As set out in the Thomson Affidavit, FHH’s account with PSC, as at April 30, 2020, comprised:
 - a. Bonds with an estimated market value of approximately CDN \$4.4 million and USD \$1.6 million;
 - b. A cash credit balance of \$3.0 million; and,
 - c. margin loans owed by FHH to LBS of approximately USD \$4.2 million.
33. Thomson advised the Liquidator that FHH had not initiated any transactions in connection with the PSC account between April 30, 2020 and the date of the Liquidator’s appointment (May 21, 2020).
34. Following its appointment, the Liquidator obtained a preliminary evaluation of the market value of these Bonds and was advised by Scotia Capital Inc. (“**Scotia Capital**”) that the Bonds were illiquid, and a large portion of the issuers were insolvent. As a result, it was likely the Bonds had a current market value of approximately \$1.7 million. A copy of Scotia Capital Inc.’s preliminary review is attached as **Appendix “B”**.
35. In or around the same time, the Liquidator was advised that, on May 18, 2020, that is, prior to the Liquidator’s appointment, LBS took possession of the Bonds, pursuant to their enforcement rights under their security, as FHH was unable to make the payments pursuant to the margin agreement.

Interest Receivable

36. Thomson also advised the Liquidator that a \$250,000 quarterly interest payment was due to be paid to FHH by Source Energy Services Ltd. (“**Source**”) on June 15, 2020 (the “**Source Interest Payment**”). The Liquidator corresponded with Source Energy and its payment agent, Computershare Trust Company of Canada (“**Computershare**”), to ensure that the Source Interest Payment was paid to the Liquidator. Compushare advised that it could only direct the interest payment to PSC as the broker of record.
37. By email dated June 16, 2020, Blaney, as Liquidator’s counsel, also advised LBS and PSC that the Liquidator required that any funds received by LBS or PSC from Source in respect of FHH must be remitted to the Liquidator. A copy of the above email is attached as **Appendix “C”**.
38. Legal counsel to LBS responded stating that they had been advised that Source had been granted a 60-day extension to make the Source Interest Payment, and that, in the circumstances, they would not address any entitlement to the Source Interest Payment at that time.

Insurance

39. Following its appointment, the Liquidator sent correspondence to FHH’s insurance broker, Steer Insurance Brokers and Consultants Inc. (“**Steer**”) status and coverage of any insurance policies in place, along with the relevant renewal dates and the status of premiums.
40. Steer advised that:
- a. FHH held \$3.0 million of D&O Insurance by AIG Insurance Company of Canada (“**AIG**”) with a term to June 28, 2020;
 - b. FHH also maintained a Commercial Package policy (General Liability and contents) with Intact Insurance with a term to December 31, 2020; and,
 - c. First Hamilton Financial Services held an E&O Policy with AIG with a term to January 21, 2021.

41. Steer further advised that, prior to the Liquidator's appointment, FHH's board of directors instructed Steer to issue a Notice of Potential Claim ("NOPC") to AIG. Steer further advised that the D&O Policy only provided coverage on a "Claims Made" basis and that the NOPC may not be sufficient to trigger a valid claim with AIG. Accordingly, in their view, in order to preserve the coverage available under the D&O Policy, an extension period premium would need to be paid by June 28, 2020.
42. On June 5, 2020, the Liquidator was contacted by Steer on behalf of 3 former directors of the FHH Entities, being Mr. Ernest Larry Eves, director and Chairman of the Board, Mr. Timothy Huxley, director and Secretary, and Mr. Michael Leskovec, and asked to convene a conference call to review the status of the D&O Policy.
43. A conference call among the above parties took place on June 17, 2020. During that call, the Liquidator advised the FHH's directors present that it had no funds available with which to pay to renew or extend the D&O Policy, including with respect to coverage for any claims that may arise for any actions that took place prior to the policy's expiry date set for June 28, 2020. Following further discussion, the Directors advised the Liquidator that they would arrange to personally advance the necessary funds to the Liquidator to cover the cost of the premium to extend coverage of the D&O Policy.
44. On June 23, 2020, the Liquidator received the sum of \$11,340.00 from the Directors for the purposes of renewing or extending the D&O Policy. The Liquidator in turn paid the premium to Steer to extend the D&O Policy coverage for any potential claims for a further five years.

Other Assets

45. The Liquidator has not discovered or been made aware of any other significant assets of the FHH Entities that may be realized upon for the benefit of the creditors and/or investors of the FHH Entities.

FHH PREFERENCE SHARES

46. According to FHH's offering memoranda dated April 30, 2018 and May 1, 2018, FHH offered two series of Preference Shares for sale to customers who were looking for fixed income securities. The proceeds from the subscription of two series of preference shares, along with borrowed funds, would be used to purchase eligible debt instruments.
47. In May 2018, FHH began concurrently offering Series B 5% Cumulative Redeemable Retractable Non-voting Preference Share as well as units comprised of Series A 7% Cumulative Non-voting Preference Shares and Class A share purchase warrants. Between April 2018 and June 2019, approximately 3.3 million of FHH's preference shares and units were sold at a price of \$10 each, for a total investment value of approximately \$32.5 million.
48. Of these 3.3 million outstanding units, as of the end of May 2020,
 - a. approximately 1.4 million shares/units were held in trust by LBS in registered retirement accounts of PSC's clients, at an initial investment value of approximately \$14.0 million;
 - b. approximately 1.8 million shares/units were held in trust by LBS in non-registered accounts of PSC's clients as physical certificates by the shareholders, all at a total initial investment value of approximately \$17.5 million; and
 - c. the remaining shares/units were redeemed or retracted by FHH for various reasons.
49. Based on the preliminary information regarding the market value of the Bonds provided by Scotia Capital at approximately \$1.7 million and the remaining margin debt to LBS estimated at over approximately \$2.4 million, absent a recovery from third party sources, it appears unlikely that there will be any significant distributions available from the Liquidation Proceedings for the holders of FHH Preference Shares or warrants.

INVESTOR CLAIMANTS

50. Following its appointment, MNP was contacted by more than 20 individuals who advised that they had purchased Preference Shares. Almost all of the individuals who contacted MNP advised that:
- a. they are elderly retirees, most of whom are in their late sixties and seventies;
 - b. the funds they invested were retirement funds from within their RRSP's and RRIF's, and that in many cases, the income stream and capital withdrawals was a critical component for them to be able to meet and fund their daily living expenses;
 - c. they were advised by PSC investment advisers that the Preference Shares offered them an above average yield of greater than 7%, compared to GIC's or based on FHH investments in low risk, corporate bonds. Further, they were not aware that FHH would be purchasing the securities on margin;
 - d. they did not recall completing any "Know Your Client" documentation nor any other questionnaires in which they set out their low risk tolerances, based on their advanced ages and financial situations, nor did they recall reviewing any of FHH's prospectuses or investment memorandums that advised of the real risk levels of investing in the Preference Shares. They further advised that, had they been made aware of the risks associated with the Preference Shares or the underlying securities, they never would have made the investment; and,
 - e. they characterized themselves as unsophisticated investors and as long-standing members of the PACE Credit Union, that they had made the investment principally because they had faith in the advice given to them by the PSC and or PACE Credit Union representatives.

APPOINTMENT OF PALIARE ROLAND AS REPRESENTATIVE COUNSEL

51. As set out above, other than the relatively minor recoveries from the sale of the office furniture and equipment, MNP has not recovered any funds, and does not currently have any funds with which to conduct any further investigations or to commence litigation to

try to recover any funds, and in particular, with respect to potential claims against FHH's directors and offices or anyone else (the "**Potential Claims**") who may be liable to FHH for conduct or activities that gives rise to damages.

52. As a result, in mid-June 2020, MNP contacted the law firm Paliare Roland Rothstein Rosenberg LLP ("**Paliare Roland**") to discuss whether it would be prepared to consider pursuing the Potential Claims on a contingency fee basis.
53. Following further discussions with Paliare Roland, as well as further discussions with some of the various investors/ retirees who had purchased FHH Preference Shares, it was agreed that given the large number of investors (the "**Investor Claimants**") and the potential complexity of the Potential Claims, it would be best to seek to have Paliare Roland appointment as Representative Counsel to the Investor Claimants.
54. In early July 2020, MNP expanded its dialogue with Paliare Roland to include E&Y as Court-appointed liquidator for PSC and other related entities, and the potential for Paliare Roland to act on behalf of the Investor Claimants, as well as other persons who may have claims against PSC and its related entities.
55. On or about July 8, 2020, Blaney and counsel for E&Y (collectively, the "**Liquidators**") received a letter from Paliare Roland, a copy of which is attached hereto as **Appendix "D"** advising that Paliare Roland had now been retained by certain individual investors in connection with claims involving the Preference Shares and that they were interested in seeing if a solution could be reached involving the Liquidator and E&Y, and indicating that they were interested in being appointed as representative counsel on behalf of the Investor Claimants.
56. Since that date, the Liquidators have engaged in a constructive dialogue with Paliare Roland, with a view to seeing if the parties could arrive at a form of order that could see Paliare Roland appointed as representative counsel for the Investor Claimants.
57. More recently, the discussions have expanded to include PACE Credit Union ("**PCU**"), another entity related to PSC. Based upon the information provided by the Investor Claimants, it appeared that they could also advance some or all of their claims in this

matter against PCU. The discussions with representatives of and counsel to PCU resulted in a role for PCU as well, that is referenced below.

58. Paliare Roland has now confirmed to the Liquidators, that it has been in contact with more than 27 Investor Claimants as of the date of this report.
59. The Liquidators and Paliare Roland have now agreed upon the terms of an order, subject to the approval of this Court, that would see Paliare Roland appointed as Representative Counsel for the Investor Claimants as defined therein. The draft order will be submitted jointly by the Liquidators (the “**Proposed Representative Counsel Order**”).
60. The Proposed Representative Counsel Order provides for the appointment of Paliare Roland as Representative Counsel for the Investor Claimants on the following terms:
 - a. Representative Counsel, acting in consultation with the Liquidators, would be authorized to form a committee of investors to advise it (the “**Representative Committee**”);
 - b. Representative Counsel would be authorized to take such steps and to perform such acts as are necessary or desirable for the purpose of representing the Investor Claimants, including, without limitation:
 - i. developing a process in consultation with the Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims;
 - ii. addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;
 - iii. reporting to and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and
 - iv. performing such other actions as approved by this Court;

- c. Investor Claimants would have the right to opt out from being represented by Representative Counsel;
 - b. the fees and expenses of Representative Counsel would be paid out of the funds recovered for the Investor Claimants pursuant to or by virtue of this appointment, in accordance with terms to be agreed with the members of the Representative Committee and approved by this Court in the ordinary course, or, in the absence of an agreement, as directed by further order of this Court, having regard to the resources invested, risk assumed and results achieved by Representative Counsel, together with such other considerations as this court determines to be relevant;
 - c. until Representative Counsel has completed its mandate or until this Court otherwise directs, no proceeding or enforcement process in respect of Tolled Claims (as defined in the Proposed Representative Counsel Order) shall be commenced or continued in any Court or tribunal against or in respect of the Companies, or any of their related entities, including PACE Credit Union, except with leave of this Court, and any and all Proceedings currently under way against or in respect of such parties would be stayed and suspended pending further order of this Court; and
 - d. to the extent that any Limitation Period (as defined in the Proposed Representative Counsel Order) expires on or after the date of the order, such Limitation Period would be tolled such that it ceases to continue running until the Court decided.
61. MNP has reviewed the qualifications of Paliare Roland to act as Representative Counsel, as set out in **Appendix “E”** attached hereto.
62. MNP supports the appointment of Paliare Roland as Representative Counsel on the terms of the Proposed Representative Counsel Order for the following reasons:
- a. MNP is satisfied as the qualifications and relevant experience of Paliare Roland to act on this mandate;
 - b. the Investor Claimants are, to the knowledge of MNP, a vulnerable and disparate group of individuals, primarily seniors, who were and are unsophisticated in matters

involving investments and in particular investments of the type like the Preference Shares, such that they would benefit from Representative Counsel assisting them in navigating the Liquidation Proceedings and advancing their claims;

- c. Representative Counsel would act as a single point of contact to receive and distribute pertinent information and coordinate communication with the Investor Claimants;
- d. the potential multiplicity of actions threatened to be commenced in relation to the PFL or FHH preference shares or warrants would not provide comprehensive representation for all Investor Claimants;
- e. the appointment of Representative Counsel will allow for all the claims that could be asserted by the Investor Claimants to be addressed in an efficient, timely and consistent manner under the exclusive jurisdiction of this Court;
- f. the appointment of Representative Counsel would assist in ensuring that all Investor Claimants are able to participate meaningfully and effectively in any process to resolve or adjudicate these claims;
- g. the appointment of Representative Counsel will benefit not only the Investor Claimants by improving their access to justice, but also other stakeholders by reducing the administrative burden associated with these proceedings; and
- h. given the vulnerability of the Investor Claimants, the social benefit to be derived from their representation by experienced counsel and the facilitation of the resolution of their claims in an efficient, timely and consistent manner, it is fair and just to appoint Representative Counsel.

63. Further, during the discussions with PCU and its counsel, as referenced above, PCU sought the opportunity to present a settlement proposal to Representative Counsel and the Liquidators with respect to any potential claims by the Investor Claimants against PCU and / or its officers and directors. Based on the discussions, the Liquidators and Paliere Roland were all of the view that such a proposal could ultimately prove beneficial to the

Investor Claimants, and thus, they were prepared to permit PCU a period of time to try to put together and propose such a settlement proposal.

64. As a result, the Proposed Representative Counsel Order includes a provision whereby PCU would have a period of time during which it would have the exclusive opportunity to present a settlement and/or settlement package in respect of direct and indirect Investor Claims (including claims over and third party claims) against PACE Credit Union and/or its officers and directors in respect of the PFL and FHH preference shares and warrants. Representative Counsel and the Liquidators would have the right to consider such a settlement but would not be required to accept it.
65. Paliare Roland has agreed to this provision, and accordingly, the Liquidator is agreeable to inclusion of this provision in the Proposed Representative Counsel Order.

CONCLUSIONS AND RECOMMENDATIONS

66. Based on the foregoing, the Liquidator respectfully recommends that the Court make an order granting the relief detailed in the Notice of Motion herein and in paragraph 2. g of this Report and in particular appointing Paliare Roland as representative counsel for the Investor Claimants.

All of which is respectfully submitted this 31st day of July, 2020

MNP LTD. in its capacity as the Court-appointed Liquidator of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc. and not in its personal or corporate capacities

Per:



Jerry Henechowicz, CPA, CA, CIRP, LIT
Senior Vice President

Appendix A

Court File No. CV-20-00641372-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.)	THURSDAY, THE 21 st DAY
)	
JUSTICE HAINEY)	OF MAY, 2020



IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B.16, AS AMENDED

AND IN IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C., 1985, C. C-44, AS AMENDED

AND IN THE MATTER OF A WINDING UP OF
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.

Applicants

WINDING-UP ORDER

THIS APPLICATION, made by First Hamilton Holdings Inc. (“FHH”), First Hamilton Financial Services Inc. (“FHFS”), First Hamilton Capital Inc. (“FHC”), First Hamilton General Partner 2 Inc. (“FHGP2”) and First Hamilton Mortgage Brokers Inc. (“FHMB” and, collectively with FHH, FHFS, FHC and FHGP2, the “Companies”), pursuant to section 207 of the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended (the “OBCA”) and section 214 of the *Canada Business Corporations Act*, RSC 1985, c. C-44 (the “CBCA”), for an Order, among other things, winding up each of the Companies, was heard this day by judicial videoconference via ZOOM at Toronto, Ontario due to the COVID-19 crisis:

ON READING the Affidavit of Joseph Thomas sworn on May 19, 2020, and on hearing the submissions of counsel for the Companies,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS** that each of the Companies shall be wound up pursuant to section 207 of the OBCA and section 214 of the CBCA with effect as of the date of this Order.

NO PROCEEDINGS AGAINST THE COMPANIES OR THEIR PROPERTY

3. **THIS COURT ORDERS** that from the date of this Order until further order of this Court (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Companies, any of their subsidiaries or affiliates, or the Liquidator, or affecting any of the Companies' current or future assets, undertakings or properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, and for greater certainty, including all funds, securities or other assets on deposit with or in the possession of Laurentian Bank Securities (collectively, the "**Property**"), except with the written consent of the Liquidator, or with leave of this Court, and any and all Proceedings currently under way against or in respect of or affecting the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

4. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Companies or the Liquidator, or affecting the Property, including rights of set-off, are

hereby stayed and suspended except with the written consent of the Liquidator, or leave of this Court, provided that nothing in this Order shall: (i) empower the Liquidator to carry on any business which the Companies are not lawfully entitled to carry on; (ii) exempt the Liquidator from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or re-perfect an existing security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

5. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sub-lease, licence or permit in favour of or held by the Companies, except with the written consent of the Liquidator, or leave of this Court.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

6. **THIS COURT ORDERS** that (i) the Companies, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including without limitation, Pace Securities Corporation, and Ernst & Young Inc., in its capacity as liquidator of Pace Securities Corporation shall forthwith advise the Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Liquidator, and shall deliver all such Property to the Liquidator upon the Liquidator's request.

7. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Companies, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator

unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

8. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

CONTINUATION OF SERVICES

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Companies or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, employee benefits, transportation services, utility, leasing or other services to the Companies, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Liquidator, and that the Liquidator shall be entitled to the continued use of the Companies' current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in

each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

10. **THIS COURT ORDERS** that during the Stay Period, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Companies with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Companies whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers of the Companies, except with the written consent of the Liquidator or leave of this Court.

THE LIQUIDATOR

11. **THIS COURT ORDERS** that MNP Ltd. is hereby appointed pursuant to section 210 of the OBCA and section 217(b) of the CBCA as liquidator (in such capacity, the "Liquidator") of the estate and effects of the Companies for the purpose of winding up their business and affairs and distributing their Property, and the Companies' officers, directors, employees, consultants, agents, experts, accountants, counsel and such other persons currently retained or employed by it shall co-operate fully with the Liquidator in the exercise of its powers and discharge of its obligations and provide the Liquidator with the assistance that is necessary to enable the Liquidator to adequately carry out the its functions.

12. **THIS COURT ORDERS** that the Liquidator is expressly empowered and authorized, but not obligated, to do any of the following:

- (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) deposit all money belonging to the Companies in any bank of Canada listed in Schedule I or II to the *Bank Act* (Canada) or in any trust corporation or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any

other depository approved by the Court, which deposits shall not be made in the name of the Liquidator individually, but shall be separate deposit accounts in the Liquidator's name as Liquidator of the Companies;

- (c) carry on the business of the Companies so far as may be required as beneficial for the winding up of the Companies;
- (d) sell any of the Property by public auction or private sale or, where applicable, through a stock exchange, and receive payment of the purchase price either in cash or otherwise;
- (e) enter into one or more agreements for the transfer of the Companies' client accounts to other investment dealers on such terms as the Liquidator may in its discretion deem appropriate;
- (f) take such steps with respect to accounts of deferred customers (as that term is defined in the *Bankruptcy and Insolvency Act* (Canada) (the "BIA")) as the Liquidator may in its discretion deem appropriate;
- (g) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Liquidator's powers and duties, including engaging the services of a broker to effect the sale of securities held by the Companies;
- (h) do all acts and execute, in the name and on behalf of the Companies, all documents, and for that purpose use the seal of the Companies, if any;
- (i) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Companies;
- (j) make such compromise or other arrangement as the Liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he, she or it has a Claim whereby the Companies may be rendered liable;

- (k) compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the Companies and any contributory, alleged contributory or other debtor or person who may be liable to the Companies and all questions in any way relating to or affecting the Property, or the winding up of the Companies, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the Liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof;
- (l) disclaim any leases entered into by the Companies;
- (m) cause to be filed with the appropriate governmental authority all tax returns required to be filed by the Companies, their subsidiaries and, if necessary, any trusts or special purpose entities for which the Companies continue to have responsibility;
- (n) remit all taxes required to be remitted by the Companies in accordance with all applicable statutes;
- (o) obtain any all applicable clearance certificates from governmental authorities;
- (p) cause to be filed with the appropriate governmental authority all financial statements and reports required to be filed by the Companies;
- (q) establish and implement a claims process in respect of any or all of the Companies;
- (r) in respect of each of the Companies, pay or otherwise satisfy all claims from the Property thereof if there are sufficient funds to do so, and after satisfying all such claims, distribute the remaining Property or proceeds thereof (if any) rateably among the registered shareholders thereof according to their rights and interests;
- (s) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the Companies;

- (t) at any time after the affairs of any of the Companies have been fully wound up, make an application to the Court for an order dissolving any or all of the Companies;
- (u) wind up or dissolve all wholly-owned subsidiaries of the Companies;
- (v) assign any of the Companies into bankruptcy; and
- (w) do and execute all such other things as are necessary for winding up the business and affairs of the Companies and distributing the Property.

13. **THIS COURT ORDERS** that the Liquidator shall provide any creditor or shareholder of the Companies with information provided by the Companies in response to reasonable requests for information made in writing by such creditor or shareholder addressed to the Liquidator or its legal counsel. The Liquidator shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Liquidator has been advised by the Companies is confidential or otherwise material, non-public information, the Liquidator shall not provide such information to creditors or shareholders unless otherwise directed by this Court, or on such terms as the Liquidator may agree.

14. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Liquidator under the OBCA and the CBCA, the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Liquidator by the OBCA, the CBCA or any applicable legislation.

15. **THIS COURT ORDERS** that the Liquidator, counsel to the Liquidator, and counsel to the Companies shall be paid their reasonable fees and disbursements incurred both before and after the making of this Order, in each case at their standard rates and charges, and the Liquidator, counsel to the Liquidator and counsel to the Companies shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Property, as security for such fees and disbursements, and that the Administration Charge shall form a first charge on the

Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "Encumbrances"), in favour of any Person.

16. **THIS COURT ORDERS** that the Liquidator, its legal counsel, and counsel to the Companies shall pass their accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

17. **THIS COURT ORDERS** that prior to the passing of their accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including its and the Companies' legal fees and disbursements, and such amounts shall constitute advances against remuneration and disbursements when and as approved by this Court.

18. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

19. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA or otherwise; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Companies, and notwithstanding any provision to the contrary in any Agreement.

- (a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by the Companies of any Agreement to which it is a party;
- (b) none of the chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and
- (c) the payments made by the Companies pursuant to this Order and the granting of the Administration Charge do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable, reviewable, void or voidable transactions under any applicable law.

FUNDING OF THE LIQUIDATION

20. **THIS COURT ORDERS** that the Liquidator be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Administration Charge.

21. **THIS COURT ORDERS** that neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Liquidator's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Liquidator's Certificates.

EMPLOYEES

24. The Liquidator shall not be liable for any employee-related liabilities other than such amounts as the Liquidator may specifically agree in writing to pay. Nothing contained in this Order shall prejudice the rights of employees of the Companies to make claims under the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 in the event that any of the Companies become bankrupt.

PIPEDA

25. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Liquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

protocol) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.mnpdebt.ca/firsthamilton.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to interested parties at their respective addresses as last shown on the records of the Companies and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

28. **THIS COURT ORDERS** that Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties under this Order.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of any of the Companies.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Liquidator and its respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Liquidator and its respective agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that any interested party (including the Liquidator) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. **THIS COURT ORDERS** that the Liquidator may apply for its discharge upon providing one week's notice to the Applicants and to those parties who have filed a Notice of Appearance, and after passing its accounts in accordance with paragraph 16 hereof.

34. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of

~~at 12:00 (insert time) Eastern Daylight Time on the date of this Order.~~

GH MAY 21, 2020. THE ORDER DOES NOT HAVE TO BE ENTERED.

Handwritten signature

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 22 2020

PER / PAR:

Handwritten initials

SCHEDULE "A"

LIQUIDATOR'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that MNP Ltd, the liquidator (the "Liquidator") of the assets, undertakings and properties of by FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC. (collectively, the "Companies"), including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ____ day of May, 2020 (the "Order") made in an action having Court file number ____ CL-_____, has received as such Liquidator from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Liquidator is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ____ day of each month] after the date hereof at a notional rate per annum equal to the rate of ____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Liquidator to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the

Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Liquidator does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

**MNP Ltd., solely in its capacity as Liquidator
of the Property, and not in its personal or
corporate capacity**

Per: _____

Name:

Title:

IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.O. 1990, C. B.16, AS AMENDED
AND IN THE MATTER OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C., 1985, C. C-44, AS AMENDED
AND IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON
CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.

CV-20-00041372-00CL

Court File No. • CV-20-00041372-00CL

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

WINDING-UP ORDER

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

LISA S. CORNE (27974M)
Email: lcorne@dickinsonwright.com
Tel: (416) 646-4608
Fax: (416) 865-1398

Lawyers for the Applicants

Appendix B

From: Chisholm, Michael

Sent: May 29, 2020 11:51 AM

To: Jerry Henechowicz <Jerry.Henechowicz@mnt.ca>; Matthew Lem <Matthew.Lem@mnt.ca>

Cc: Clegg, John <john.clegg@scotiawealth.com>

Subject: First Hamilton - Securities Account

Jerry,

I hope that you have had a good week and are staying well! As per our discussion, I had the team look into the holdings, and also went to our bond desk to get the current price's and liquidity information. When looking through the statement provided, it appears that anything that had some liquidity was sold in April. Our bond desk went through the holdings and informed us that all will be extremely difficult to liquidate as there is little interest at this time. Looking further into the holdings the Sherritt bonds looks like they may go into bankruptcy and possibly and possible converted to common equity when it comes out. Also the Dean Foods bond are in default and the company plans to file for Chapter 11.

Generally we charge 1% (\$1) of the face value of a Bond. In this scenario we could open the account and charge 0.5% (\$0.5) per face value per Bond. In this case, this would come to approximately \$60,000, and our bond desk work the order to get the best price possible at that given time.

The other option is to open an itrade account, which would be somewhat cheaper, but they don't provide the level of service our order execution.

Below are the recent price detail from our bond desk as of yesterday. Please let me know if you have any further questions or would like to chat in more detail.

Securities	CUSIP/ISIN	PRICE	QTY	Potential MKT VALUE
CAD				
Crew Energy 6.5 2024	226533AC1		48 952200	\$ 457,056.00
First Hamilton	these are not bonds			
First Hamilton	these are not bonds			
First Hamilton	these are not bonds			
Iron Mountain	USC48621AA15		101 17000	\$ 17,170.00
Perpetual Energy	714270AH8		10 690000	\$ 69,000.00
Sherritt 7.5	823901AK9		8.5 163400	\$ 13,889.00
Sherritt 8	823901AH6		9 3659000	\$ 329,310.00
Source Energy	83615WAA0		15 5141440	\$ 771,216.00
Vesta Energy	925383AB7		20 50000	\$ 10,000.00
First Hamilton	these are warrants			
First Hamilton	these are warrants			
First Hamilton	these are warrants			
USD				
Dean Foods (Defaulted)	242370AD6		3 400000	\$ 12,000.00
Dean Foods (Defaulted)	USU24044AB24		2.3 1456000	\$ 33,488.00
	TOTAL			\$ 1,713,129.00

Thanks

Mike

Michael R. Chisholm, CIM | Sr. Wealth Advisor & Associate Portfolio Manager

Appendix C

From: [Mervyn D. Abramowitz](#)
To: MoleirinhoF@lb-securities.ca; jeffrey.d.kerbel@ca.ey.com
Cc: george@chaitons.com; [Shara N. Roy](#); Jerry.Henechowicz@mnp.ca
Subject: First Hamilton Holdings
Date: June 10, 2020 1:47:00 PM
Attachments: [image009.png](#)
[image011.png](#)
[image013.png](#)
[image014.png](#)
[image005.png](#)
[image007.png](#)
[image015.png](#)
[image016.png](#)

Hello all,

As you know, we are counsel to MNP Ltd. in its capacity as court-appointed liquidator (Liquidator) of First Hamilton Holdings Inc. and certain related entities (collectively "FHHI").

The records of FHHI in the hands of the Liquidator indicate that FHHI owns, through its account with Pace Securities Corporation (PSC), at Laurentian Bank Services (LBS), among other things, units in certain bonds issued by Source Energy Services Ltd. (Source Energy). The Liquidator understands that Source Energy is expected to make its regular quarterly interest payments in respect of the bonds shortly, which payments are to be remitted to Computershare Trust Company of Canada (Computershare), and perhaps CDS Clearing and Depository Services Inc. (CDS) as well. The expected payment is in the amount of approximately \$250,000.

The Liquidator requires that any funds received by PSC or LBS from any of Source Energy, Computershare and / or CDS, payable in respect of FHHI, be remitted directly to the Liquidator.

Please feel free to contact us or Jerry Henechowicz of the Liquidator if you have any questions. Thank you.



Mervyn D. Abramowitz C.S.

Partner

Certified Specialist, Civil Litigation, Bankruptcy and Insolvency Law

mabramowitz@blaney.com

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🌐 Blaney.com



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Appendix D

**PALIARE
ROLAND**
BARRISTERS

Chris G. Paliare
Ian J. Roland
Ken Rosenberg
Linda R. Rothstein
Richard P. Stephenson
Nick Coleman
Donald K. Eady
Gordon D. Capern
Lily I. Harmer
Andrew Lokan
John Monger
Odette Soriano
Andrew C. Lewis
Megan E. Shortreed
Massimo Starnino
Karen Jones
Robert A. Centa
Nini Jones
Jeffrey Larry
Kristian Borg-Olivier
Emily Lawrence
Tina H. Lie
Jean-Claude Killey
Jodi Martin
Michael Fenrick
Ren Bucholz
Jessica Latimer
Lindsay Scott
Alysha Shore
Denise Cooney
Paul J. Davis
Danielle Glatt
Lauren Pearce
Elizabeth Rathbone
Daniel Rosenbluth
Glynnis Hawe
Emily Home
Hailey Bruckner
Charlotté Calon
Shawna Leclair

COUNSEL
Stephen Goudge, Q.C.

HONORARY COUNSEL
Ian G. Scott, Q.C., O.C.
(1934 -2006)

July 8, 2020

VIA EMAIL

George Benchetrit
Chaitons LLP
George@chaitons.com

Massimo (Max) Starnino
T 416.646.7431 Asst 416.646.7470
F 416.646.4301
E max.starnino@paliareroland.com
www.paliareroland.com

File 80003

Mervin Abramovitz
Blaney McMurtry LLP
MAbramowitz@blaney.com

Dear Sirs:

Re: In the matter of the winding up of PACE Securities Corp. (“PACE Securities”) and PACE Financial Limited (“PACE Financial”) and others (collectively, the “PACE Entities”), and in the matter of the winding up of First Hamilton Holdings Inc. (“FHH”) and others (collectively, the “FHH Entities”, and, together with the PACE Entities, the “Debtor Companies”).

We are writing to confirm that Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”) has been formally retained by Surinder Sawrup, Aman Sawrup and Saira Ahmad (the “**Clients**”) and has also been in contact with other individuals, including Sheral Young, in connection with their purchase of PACE Financial Limited Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares, and equivalent securities of FHH, as well as FHH warrants (collectively, the “**Preference Shares**”).

As you know, our Clients and other similarly situated persons holding Preference Shares (the “**Investor Claimants**”) have suffered significant actionable losses in respect of their investments. By way of example, we have summarized the experience of the individuals referred to above in Appendix A to this letter. In light of these experiences, our Clients are contemplating claims against PACE Securities, PACE Financial, FHH, and PACE Credit Union, various of their respective directors, officers and employees, and possibly others (collectively, the “**Defendants**”). As a starting point, however, our Clients would like to see Paliare Roland formally appointed as representative counsel for the Investor Claimants in the Debtor Companies’ liquidation. They believe that is an important first step for at least two reasons.

First, our Clients perceive a considerable amount of confusion among the Investor Claimants. These are commercially unsophisticated individuals who find themselves in their current situation because they were misled by persons in authority. They are presently receiving information from multiple sources, including other Investor Claimants, class action law firms, representatives of PACE Credit Union and Laurentian Bank, and through the media, but many of them do not understand what they are being told, whether the individuals with whom they are speaking are acting in their best interest, or how they should proceed. For

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 WELLINGTON STREET WEST 35TH FLOOR TORONTO ONTARIO M5V 3H1 T 416.646.4300

example, we understand that representatives of PACE Credit Union are reaching out to certain Investor Claimants to gather and/or convey information, but the communications appear to our clients to be occurring on *ad hoc* basis, and Investor Claimants are understandably distrustful. As a result, our Clients believe that the appointment of experienced counsel to gather and act as a conduit of information to and from the Investor Claimants, and to advocate their interests and ensure fair and consistent treatment among them is of paramount importance.

Second, many of the Investor Claimants are over the age of 65 and were relying on their investments to fund their retirements. These individuals have little or no ability to mitigate their losses and need money now. As a result, the usual civil litigation path, which typically involves a starburst of claims and years of delay, is of little use to them. Our Clients hope that establishing representation in the liquidation proceedings will allow those proceedings to become a forum to explore the possibility of a collaborative and creative solution among the willing, similar to Lac-Megantic and other cases.

In the spirit of collaboration, we would like to discuss our Clients' objectives with you at your earliest opportunity (and, if helpful, with counsel for other stakeholders). In order to help focus that discussion, we are enclosing a draft appointment order for your consideration. This draft remains subject to ongoing internal review and review by our clients, and we welcome your comments.

While recognizing that court proceedings are inherently adversarial, and that the court appointed liquidators serve a multiplicity of interests, our preference is to work with both liquidators to limit the hardship and damages suffered by the Investor Claimants as much as possible.

We look forward to speaking with you about the foregoing at your earliest convenience.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Massimo (Max) Starnino
MS:DG

c: Ken Rosenberg
Odette Soriano
Danielle Glatt
Clients

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Appendix E

Paliare Roland is an experienced and qualified firm with expertise representing large numbers of stakeholders who are often commercially unsophisticated and vulnerable in a wide variety of insolvency and/or class proceedings. Engagements of note include, among others:

- **Sino Forest Corporation.** Paliare Roland was retained as insolvency counsel to the class representatives in a \$2B shareholder class action when the reporting issuer (Sino Forest) commenced restructuring proceedings under the Companies' Creditors Arrangement Act in Ontario.
- **Lac Megantic (Montreal Maine & Atlantic Railway (Canada) Co.).** Paliare Roland was retained as insolvency counsel to the representatives for the townspeople of Lac Megantic when the railway company at the centre of the one of the worst railway disasters in Canadian history commenced restructuring proceedings in Quebec, shortly after one of its trains transporting petroleum products derailed while rolling through the town.
- **Poseidon Concepts Corporation.** Paliare Roland was insolvency counsel to the representatives for shareholders in a \$600MM shareholder class action when the reporting issuer (Poseidon Concepts Corporation) commenced restructuring proceedings in Alberta.
- **U.S. Steel Canada and Essar Steel Algoma Inc.** Paliare Roland was retained by the United Steelworkers International Union to represent the interests of thousands of workers and retirees at Stelco's integrated steel mills in Hamilton and Port Dover, and at Algoma's integrated steel mill in Sault Ste. Marie;
- **Bank of Montreal Registered Account Foreign Exchange Class Action.** Paliare Roland represents a class of approximately 200,000 registered account holders and has obtained findings on summary judgment that BMO Nesbitt Burns Inc., BMO InvestorLine Inc., and BMO Trust Company committed breach of trust and breach of fiduciary duty by systematically imposing an undisclosed mark-up on the exchange rate they charged on currency conversions in the registered accounts, taking approximately \$102.9 million in undisclosed fees. The Court has ordered the BMO companies to disgorge the profits generated on these fees, and has directed a reference to determine the amount of a final judgment;
- **Day v. Canada (Attorney General).** Paliare Roland, along with another firm, was recently selected by the Federal Court of Canada to represent the interests of Métis and Non-Status Indians affected by the "Sixties Scoop", a federal program whereby the children of Status Indians, Métis, and Non-Status Indians were taken from their parents and placed in non-indigenous foster homes or put up for adoption.

**IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC.,
FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC.,
FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE
BROKERS INC.**

Court File No. CV-20-00641372-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD
(Appointment of Representative Counsel)

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Court-Appointed Liquidator of
First Hamilton Holdings Inc.,
First Hamilton Financial Services.,
First Hamilton Capital Inc.,
First Hamilton General Partner 2 Inc., and
First Hamilton Mortgage Brokers Inc.